



Attorney Docket No. 032228-40100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of)
Edward G. SUTT, Jr.) Confirmation No. 8637
Application No. 10/799,766) Group Art Unit: 3728
Filed: March 15, 2004) Examiner: Luan Kim Bui
For: PALLET NAIL WITH)
ENLARGED HEAD)

DECLARATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. My name is Edward G. Sutt, Jr., the inventor of the fastener which is the subject of this application.

2. I received a Bachelor of Science degree from Worcester Polytechnic Institute, a Master of Science degree from Clemson University, and received my Doctorate in Civil Engineering from Clemson University.

3. I am presently the Director of Engineering, Global Fastener Development at Stanley Bostitch, the assignee of the present patent application.

4. I have been working in the field of fasteners and fastening systems for 13 years, including 7 years at Stanley Bostitch.

5. I have detailed knowledge regarding the invention of the present application, and I also have detailed knowledge regarding the commercial sales

figures associated with various pallet nails manufactured and sold by Stanley Bostitch.

6. The total unit sales volume and total dollar sales of the conventional 2"x 0.099" pallet nails manufactured and sold by Stanley Bostitch that do not include patentable features of the present application (hereinafter "conventional pallet nails") were in steady decline since 1999. The total unit sales volume for conventional pallet nails declined from a peak of approximately 410,000 units in 1999, to approximately 213,000 units in 2006, each unit representing a box of 9000 nails.

7. Likewise, the total sales dollars of conventional pallet nails with 0.099 inch shank diameter decreased from approximately \$12,000,000 in 1999, to approximately \$5,200,000 in 2006.

8. The negative impact of the above described decline in sales of the conventional pallet nails with 0.099 inch shank diameter on profitability of Stanley Bostitch was compounded by the fact that the Gross Margin of these nails had been reduced to 20% in order to compete with pallet nails of other manufacturers, thereby making these conventional pallet nails not very profitable for Stanley Bostitch.

9. In January of 2005, pallet nail FC6DS084BD-PP in accordance with the present invention having 0.084 inch shank diameter was introduced by Stanley Bostitch.

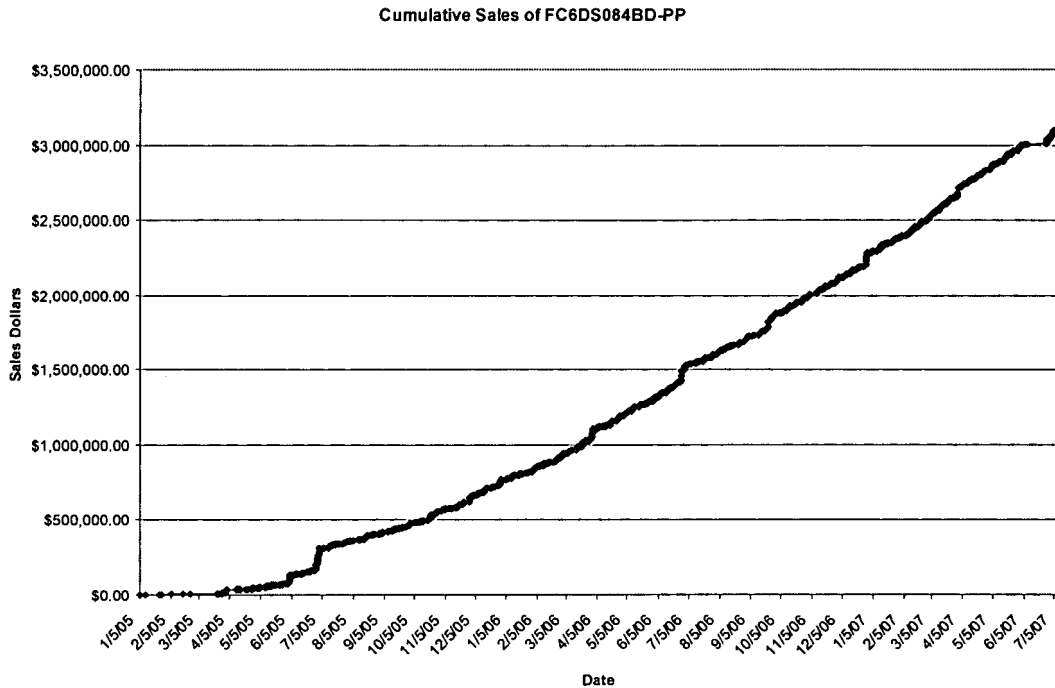
10. Because the FC6DS084BD-PP pallet nail is a thinner nail having a shank diameter which reduces the steel volume by approximately 28% as compared to the conventional pallet nail, the FC6DS084BD-PP pallet nail was not

immediately accepted in the market place. People in industry and ordinary skill in the art did not believe that the thinner FC6DS084BD-PP pallet nail would perform as well as conventional pallet nails having thicker shank diameter.

11. However, laboratory tests conducted by Stanley Bostitch and a industry leading laboratory, Virginia Tech's Center for Unit Load Design, have shown that the FC6DS084BD-PP pallet nails of the present invention, which have a smaller 0.084 inch shank diameter, perform just as well as the conventional pallet nails. The equivalent performance is primarily due to the higher ratio of the head diameter to the shank diameter recited in the claims of the application, the higher ratio resulting in a larger area of contact between the pallet deckboard and underside the head of the pallet nail.

12. Once the pallet manufacturers were informed of the equivalent level of performance, the sale of the FC6DS084BD-PP pallet nail increased substantially between June and August of 2005, and this pallet nail has enjoyed continued success in the market place. Since its introduction in January 2005, over \$3,000,000 of the reduced shank diameter FC6DS084BD-PP pallet nail has been sold. Sales of the FC6DS084BD-PP pallet nail since its introduction is shown in Figure 1.

Figure 1



13. Due to the smaller shank diameter, smaller steel wire is used in the manufacture of the FC6DS084BD-PP pallet nail. Correspondingly, higher Gross Margin of 37% is realized for the FC6DS084BD-PP pallet nail, thereby increasing profitability of Stanley Bostitch.

14. Various other advantages of the FC6DS084BD-PP pallet nails have been identified contributing to its continued acceptance and commercial success. In particular, the smaller shank diameter has been found to reduce pallet deckboard splitting which can occur during pallet construction. Furthermore, because the nail is smaller, smaller fastener driving tools can be used. Because the nail and the required driving tool are smaller, they are substantially lighter, resulting in less fatigue for the users, thereby increasing productivity of the workers that fabricate the pallets.


15. The commercial success of the FC6DS084BD-PP pallet nails is not attributable to the cost of the pallet nail since they are sold at substantially the same price as the conventional pallet nails manufactured and sold by Stanley Bostitch.

16. The loss of sales of conventional pallet nails has been partially offset by the sales of the FC6DS084BD-PP pallet nails.

17. In view of the above, the FC6DS084BD-PP pallet nail has been a tremendous commercial success since its introduction, helping to maintain the market share of pallet nails for Stanley Bostitch while increasing profitability at the same time.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

7/30/07
Date



Edward G. Sutt, Jr.